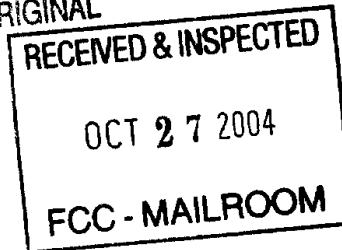




ALL-AMERICA CITY WINNER

City of Lowell  
Office of the City Manager

DOCKET FILE COPY ORIGINAL



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Lowell, Massachusetts 01852

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City Manager

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October 20, 2004

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: In the Matter of Proposed Rulemaking, Released August 12, 2004. **EB Docket No. 04-296**, Review of the Emergency Alert System which the Issuing Authority and the City Council of Lowell, Massachusetts urges the Federal Communications Commission allowing municipalities to be given access to local cable television systems to announce emergencies.

In its proposed rulemaking regarding Emergency Alert Systems (EAS) the FCC noted in the Introduction, "the permissive nature of EAS at the state and local level has resulted in an inconsistent application of EAS as an effective component of overall public alert and warning system. Accordingly, we believe that we should now consider whether permissive state and local EAS participation is appropriate in today's world." The City of Lowell agrees the current approach is permissive and strongly urges the Commission to make it mandatory that local cable television systems provide municipalities with the right and ability to override the cable system with emergency messages. Local municipalities immediately deal with any emergency, not federal or state governments. As the Commission itself notes, "In the event of an emergency, many people stay tuned to local radio and/or television stations to receive updates on what is happening and what to do.<sup>1</sup>" Therefore, who best to alert the community to an emergency than the authorized official of that community?

Currently the City of Lowell has, in its cable television franchise agreement with Comcast Cable Television, an Emergency Audio Alert provision (attached).<sup>2</sup> This provision is as important as any aspect of that franchise. It offers the subscribers, in Lowell, an added measure of security, "as the world around us has changed, (and) the import of the EAS as a tool for reaching our citizenry during time of need remains high."<sup>3</sup>

In a city of 108,000 residents, surrounded by major interstate highways and suburban communities, it is necessary to use all avenues of communication in alerting the community to emergencies. An emergency in the city, can impact tens of thousands of commuters and residents in the Greater Lowell area. Using a local EAS lessens the related issues of emergencies

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In the fifteen years since the EAS has been available to the City it has been used only a few times; a judicious use of this device. Further, very few of my counterparts in the larger cities of New England have ever used EAS in any way but judiciously.

The cost of the EAS to the cable industry in equipment, man-hours and Technical assistance is miniscule. One would think cable companies, as good citizens, would support a mandatory local EAS since so many of their employees live in the communities they serve. Further, considering recent press reports of "free cash flow"<sup>4</sup> on the part of cable television companies, it is easy for them to support this local EAS without it being a "burden."

Enclosed is a Resolution of the City Council of Lowell opposing preemption of Local Emergency Alert Systems (EAS) required by the City of Lowell Cable Television Franchise (copy attached).

I strongly urge you to support a local Emergency Activation System using local cable television systems.

Yours truly,



John F. Cox  
City Manager

cc: Edward M. Kennedy, U. S. Senate  
John Kerry, U.S. Senate  
Martin Meehan, U.S. House of Representatives  
Mayor and Lowell City Council  
T. J. McCarthy, Assistant City Manager/Operations  
David J. Fenton, Assistant Solicitor  
Jack Hall, Cable Television Coordinator  
Robert Carr, Comcast  
Elizabeth Graham, Comcast

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1. <http://www.fcc.gov/cgb/emergency/tv911.html>
  2. Section 3.18-Emergency Audio Alert (copy attached)
  3. FCC Chairman Powell, Statement, EB Docket No. 04-296
  4. Wall Street Journal, July 27, 2004
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### **SECTION 3.18 – EMERGENCY AUDIO ALERT**

The Licensee shall provide an emergency audio alert system. This system will enable the Issuing Authority or his/her designee to gain access into the Cable System by using any touch-tone telephone to override channels on the subscriber network with the emergency telephone message, however, the Issuing Authority shall hold Licensee harmless for liability arising from the Issuing Authority's or City's negligent or wrongful use of said emergency alert system. The Issuing Authority further acknowledges that in the event that City of Lowell use of the City emergency override causes an override of or interference with a national emergency alert, the Issuing Authority shall hold Licensee harmless for same. The audio alert shall be effective over the maximum number of channels that can be overridden through available equipment for such purposes. In addition, the Subscriber Network shall comply with the FCC's Emergency Alert System ("EAS") regulations. The Licensee shall have the additional technical ability of re-broadcasting specified emergency messages in conjunction with the Massachusetts Emergency Management Agency ("MEMA") and the Oceanic and Atmospheric Administration ("NOAA") and other applicable emergency agencies. The Licensee shall assist the City in establishing and maintaining contact with MEMA in this regard and Licensee shall provide information as requested relative to local EAS communications through MEMA.

COMMONWEALTH OF MASSACHUSETTS  
CITY OF LOWELL

In City Council

RESOLUTION

Requesting the Federal Communications Commission to continue to allow communities to include in their franchises an emergency audio alert system that is administered and operated by specific local officials

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WHEREAS, Proposed Rulemaking by the Federal Communications Commission, released August 12, 2004, **EB Docket No. 04-296**, Review of the Emergency Alert System, which provides for municipalities to be given access to local cable television systems to announce emergencies.

WHEREAS, the City Council of the City of Lowell is supportive that local cable television systems provide municipalities with the right and ability to override the cable system with emergency messages.

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOWELL as follows:

That the City Council of the City of Lowell by this Resolution supports the continuation of communities to include in their franchises an emergency audio alert system that is administered and operated by specific local officials

This Resolution adopted by vote of the City Council of Lowell on the Nineteenth day of October, 2004.

Submitted by:  
CITY COUNCIL - CITY OF LOWELL

/s/Mayor Armand P. Mercier  
Mayor Armand P. Mercier

/s/Edward Caulfield  
Edward Caulfield

/s/Eileen M. Donoghue  
Eileen M. Donoghue

/s/Rodney M. Elliott  
Rodney M. Elliott

/s/Richard P. Howe  
Richard P. Howe

/s/Rita M. Mercier  
Rita M. Mercier

/s/William Martin  
William Martin

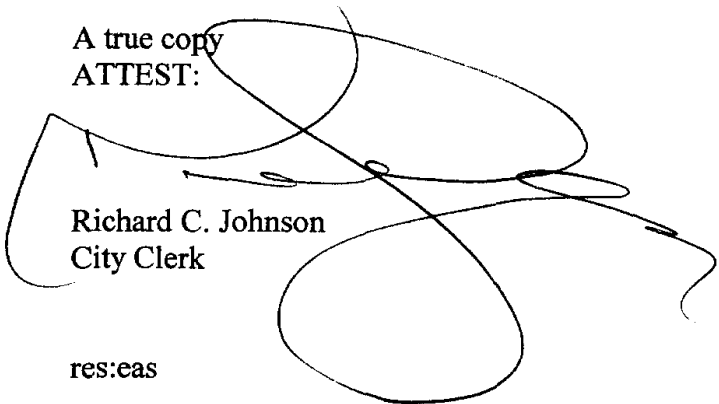
/s/James Milinazzo  
James Milinazzo

/s/Rithy Uong  
Rithy Uong

In City Council October 19, 2004, Read twice and adopted 9 yeas. So Voted./s/Richard  
C. Johnson, City Clerk

Approved by City Manager John F. Cox October 20, 2004.

A true copy  
ATTEST:



Richard C. Johnson  
City Clerk

res:eas